

## GENERAL CAUSATION

### I. PRIMARY ISSUE

- A. GENERAL CAUSATION ARGUMENT IS WEAK;  
CONVENTIONAL MEDICAL WISDOM DIRECTLY  
OPPOSITE
- B. STATISTICAL EVIDENCE IS STRONG;  
RISK FACTOR ACKNOWLEDGED
- C. NEGATIVE ANIMAL INHALATION STUDIES;  
NO KNOWN BIOLOGICAL MECHANISM

### II. ETS

- A. GENERAL CAUSATION ARGUMENT IS STRONG
- B. STATISTICAL EVIDENCE IS VEY WEAK;  
RISK FACTOR NOT CONCEDED
- C. NEGATIVE INHALATION STUDIES AND LACK OF  
BIOLOGICAL MECHANISM
- D. DOSE AND THRESHOLD ISSUES ARE  
INTUITIVELY HELPFUL - BIOLOGICAL  
PLAUSIBILITY

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## **SPECIFIC CAUSATION**

### **I. PRIMARY ISSUE**

- A. MOST EFFECTIVE MEDICAL DEFENSE IN ACTIVE SMOKER CASES; ALTERNATIVE CAUSATION IS KEY ARGUMENT**
- B. FOCUS ON OCCUPATIONAL EXPOSURES, LIFESTYLE FACTORS, MEDICAL HISTORY, ENVIRONMENTAL EXPOSURES, ETC.**
- C. PROBLEM : OTHER RISK FACTORS RAISED AS ALTERNATIVE CAUSES DO NOT COMPARE WELL STATISTICALLY TO SMOKING**

### **II. ETS**

- A. EVEN STRONGER DEFENSE IN ETS CASES**
- B. RELATIVE RISKS FOR OTHER RISK FACTORS ASSOCIATED WITH LUNG CANCER AND CARDIOVASCULAR DISEASE WILL BE HIGHER THAN RELATIVE RISKS FOR ETS**

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## ADDICTION

### I. PRIMARY ISSUE

- A. SMOKER CLAIMS PHYSICAL OR PSYCHOLOGICAL DEPENDENCE
- B. ATTEMPT TO AVOID DEFENSES BASED ON FREE CHOICE AND FAULT OF THE SMOKER

### II. ETS

- A. NO POSSIBLE ADDICTION CLAIM
- B. ISSUE = TO THE EXTENT THE NONSMOKER WAS AWARE OF ALLEGED RISKS OF ETS  
WHAT WAS DONE TO AVOID THE RISK

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## AWARENESS

### I. PRIMARY ISSUE

- A. STRONG GENERAL AND SPECIFIC AWARENESS ARGUMENTS
- B. GENERAL - UNIVERSAL KNOWLEDGE OF THE RISKS OF SMOKING FROM NUMEROUS SOURCES
- C. SPECIFIC - HEALTH WARNING LABELS, PERSONAL PHYSICIANS, ETC.
- D. INFORMED FREE CHOICE OR VOLUNTARY ASPECT OF EXPOSURE SHIFTS RESPONSIBILITY TO SMOKER

### II. ETS

- A. WEAK GENERAL AND SPECIFIC AWARENESS
- B. ALLEGED ETS RISKS RELATIVELY NEW AND CONTROVERSIAL ISSUE; NONSMOKER CAN CLAIM NO DIRECT WARNING FROM PRODUCT OR PHYSICIAN
- C. INVOLUNTARY EXPOSURE OF INNOCENT VICTIM; LACK OF FREE CHOICE CONCERNING HISTORICAL EXPOSURE
- D. ETS CLAIMS BY INVOLUNTARILY EXPOSED CHILDREN ARE PARTICULARLY SENSITIVE

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## TYPES OF CLAIMS

### I. PRIMARY ISSUE

- A. LUNG CANCER, HEART DISEASE, EMPHYSEMA, LARYNGEAL CANCER, BUERGER'S DISEASE, ETC. ARE TRADITIONAL CLAIMS
- B. AGGRAVATION / EXACERBATION OF ASTHMA, BRONCHITIS, ETC. ARE RARE; CHILDRENS' CLAIMS LIMITED TO FETAL INJURY

### II. ETS

- A. NO SCIENTIFIC BASIS FOR EMPHYSEMA, LARYNGEAL CANCER OR BUERGER'S CLAIMS
- B. LUNG CANCER, HEART DISEASE, CHILDRENS' RESPIRATORY DISEASE, AGGRAVATION / EXACERBATION CLAIMS ARE POSSIBLE

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## CHALLENGE DIAGNOSIS

### I. PRIMARY ISSUE

- A. STRONG PREJUDICE IN FAVOR OF "LOGICAL" OR "MOST LIKELY" DIAGNOSIS AND CAUSATION
- B. EXAMPLE : SMOKING HISTORY + CANCER IN LUNG = PRIMARY CANCER CAUSED BY SMOKING ASSUMPTION
- C. MEDICAL RECORDS REFLECT BIAS; INCOMPLETE WORK-UP IS COMMON

### II. ETS

- A. LESS DIAGNOSTIC BIAS EXPECTED
- B. EXPECTATION : MORE RECEPTIVE TO CONSIDERING OTHER POSSIBLE DIAGNOSES AND CAUSES
- C. MEDICAL RECORDS MAY BE MORE FAVORABLE

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